

## **811 KAR 2:110. Substance abuse by commission employees and licensees.**

RELATES TO: KRS 230.630, 230.640

STATUTORY AUTHORITY: KRS Chapter 13A, 230.640(2)

NECESSITY, FUNCTION, AND CONFORMITY: To regulate conditions under which Arabian, quarter horse and appaloosa racing shall be conducted in Kentucky. The function of this administrative regulation is to provide for the testing of individuals for alcohol and drugs.

Section 1. (1) While acting within the scope of his or her license while on the premises of an association licensed by the Kentucky Harness Racing Commission, no licensee of this commission nor employee of any racing association licensed by this commission shall have present within his/her body while on the grounds of said licensed association any amount of alcohol which would constitute legal impairment or intoxication.

(2) A breathalyzer reading of .05 percent blood alcohol content or more shall constitute legal impairment or intoxication.

(3) Every extended pari-mutuel track shall be equipped with a breathalyzer device for the detection of alcohol.

(4) The deputy commissioner or his assistant may in his discretion direct all jockeys, judges, stewards, starters and marshals licensed by this commission to submit to a blanket breathalyzer test. In the event such a blanket test is ordered by the deputy commissioner or his assistant, it must be administered across the board to all members of the class of licensees who are on the premises of the association. All licensees in the affected class of licensees must, when so ordered, submit to the breathalyzer examination. In the event a licensee refuses to take the breathalyzer examination, the licensee shall not be permitted to continue his/her duties for the remainder of the day. In the event a licensee takes the test as directed and the results thereof show a reading of .05 percent alcohol content or more, said licensee shall likewise not be permitted to continue his/her duties for that day.

(5) A designated commission representative may, with reasonable suspicion, random selection, or blanket testing, direct any licensee of this commission or employee of an association licensed by this commission to submit to a breathalyzer test for the detection of alcohol. In the event a licensee or employee refuses to take the breathalyzer examination, the licensee or employee shall not be permitted to continue his/her duties for the remainder of the day. In the event said licensee or employee takes the test as directed and the results thereof show a reading of .05 percent alcohol or more, said licensee or employee shall not be permitted to continue his/her duties for that day.

(6) Any licensee or employee who is suspended for one (1) day by the deputy commissioner, or his assistant or by a steward or harness racing commission representative, either for failure to take a breathalyzer examination or because the breathalyzer examination has a reading of .05 percent alcohol content or more, shall, after a hearing before the stewards or commission, be subject to fine or suspension, or both, by the stewards or commission for alcohol intoxication. A refusal by a licensee or employee to submit to the breathalyzer test may be introduced as evidence against any licensee or employee involved at this hearing. In the event the quarter horse racing stewards render such a decision, the ruling is appealable to the commission, as is the case in any other fine suspension imposed by the stewards.

Section 2. (1) While acting within the scope of his or her license while on the premises of an association licensed by the Kentucky Harness Racing Commission, no licensee of this commission or employee of any racing association licensed by this commission shall have present within his/her body while on the grounds of said licensed association any controlled substance as listed in KRS Chapter 218A, or in Schedules I-V of 21 USC 812. No licensee of this commission or employee of

any racing association licensed by this commission shall have present within his/her body while on the grounds of said licensed association any prescription legend drugs, unless said prescription legend drug was obtained directly from or pursuant to a valid prescription of a duly licensed physician who is acting in the course of his/her professional practice.

(2) The deputy commissioner, a designated Harness Racing Commission representative, or the presiding steward may direct any person or persons licensed by this commission, based upon reasonable suspicion, random selection, or blanket testing, to deliver a specimen of urine in the presence of said commission representative for the purpose of testing for the presence of controlled substances or drugs.

(3) The test results shall be filed with the Harness Racing Commission as soon as practicable, and the presiding steward apprised of the result.

(4) In the event a licensee refuses to deliver a specimen of urine or in the event the result of the test is positive for the presence of a controlled substance or an unauthorized legend drug as delineated in subsection (1) of this section, the licensee shall be automatically suspended for one (1) year. A second refusal or positive test will result in a lifetime suspension.

(5) The quantity of urine collected shall be sufficient to enable the sample to be split.

Section 3. The expense of the testing conducted to enforce this administrative regulation shall be borne either by the licensed racing association, or, the individual licensee or employee involved. In the event the tests produce a negative result, the expense shall be paid by the licensed racing association involved. In the event the testing produces a positive result showing the presence of .05 percent alcohol content, or the presence of any controlled substance or legend drug, then the expense shall be borne by the licensee or employee involved. (14 Ky.R. 1713; eff. 3-10-88.)